

PERS Reportable Compensation

A Summary

This section contains information about reportable compensation for members of the Public Employees' Retirement System (PERS). "Is the payment for services rendered?" is the basic statutory standard used to determine whether most payments qualify as reportable compensation. This section discusses the general application of this standard.

The actual rules that govern reportable compensation are contained in state retirement laws. This section is a summary of those laws and is not intended to be a full description of the laws. If there are any conflicts between what is written in this section and state retirement law, the law will govern.

If you have questions regarding the information contained in this section, contact the PERS Retirement Services.

What is Reportable Compensation?

In order for a payment to be subject to retirement system contributions and included in the calculation of a member's retirement benefit, the payment must meet the definition of *compensation earnable* in RCW 41.40.010(8). "Reportable compensation" is defined in rule as "compensation earnable." The term "reportable compensation" was coined by DRS to use the same term when discussing compensation in different retirement systems.

Reportable Compensation is Based upon the Nature of the Payment

DRS determines reportable compensation based upon the nature of the payment you make to an employee, not the name given to it. To determine if a payment is reportable compensation, consider the following:

- what the payment is for; and
- whether the reason for the payment brings it within the statutory definition of compensation earnable.

Example: A payment conditioned upon retirement is not reportable compensation. Attaching the label “longevity” to the payment does not change the fact that the payment is conditioned on retirement. Such a payment is not for services rendered and will not be counted as reportable compensation despite being identified by the employer as a longevity payment.

What Payments Qualify as Reportable Compensation?

The basic statutory standard for determining whether a payment qualifies as reportable compensation is if the payment is for services rendered. To determine whether a payment meets this definition and is to be reported, ask the following questions:

1. Was the payment earned as a salary or wage for services rendered?
 - If the answer is no, the payment is not reportable.
 - If the answer is yes, ask the next question.
2. Was the payment paid by the employer to an employee?
 - If the answer is no, the payment is not reportable.
 - If the answer is yes, the payment is reportable.

Example: If you are in a third party employer/employee situation or have an employee contracting services, contact PERS Retirement Services for assistance in determining if the compensation needs to be reported.

Payments considered to be for services rendered

- Base salary or wages you pay to your employees for services rendered is reportable compensation.
- Sick and annual leave is accumulated over time and paid to a person during a period of excused absence. The paid leave is deferred compensation for services previously rendered and is reportable.
- Earned severance pay is reportable compensation for PERS Plan 1 only if it is earned over time in the same manner as annual and sick leave. The employment contract or compensation policy in effect at the beginning of the employment period must specify that a certain amount of severance pay will be earned during that employment period in consideration for services rendered. Severance pay that qualifies as reportable compensation and is earned within the member’s AFC period, is excess compensation.

Example: Mr. Jones is a PERS Plan 1 member employed as the town accounting clerk. At the beginning of his employment, his contract specified that he would earn one week of severance pay for every year of employment. The earned severance pay will be paid at the time of his separation. This severance pay is reportable. At the time Mr. Jones retires, the two weeks of severance pay earned during his two highest paid years; i.e., one week per year for two years, is included in his PERS Plan 1 retirement benefit calculation. Because this pay is used in the benefit calculation, it results in an excess compensation billing to his employer.

Note: Severance pay not earned over time is not reportable.

Note: For PERS Plan 2 and Plan 3 no type of severance pay is reportable compensation.

- Bonuses that are based upon meeting certain performance goals are for services rendered and are reportable.

Example: An employer pays each employee in a work group an additional \$100 if the work group had no work related accidents in the preceding year. Remaining accident free is a performance goal. Therefore, the payment is reportable. The bonus should be prorated over each of the preceding twelve months during which it was earned.

- A retroactive salary increase paid to an employee who worked during the period covered by the retroactive payment increase is a salary or wage for services rendered and is reportable.
- Longevity or educational attainment—A member who receives a salary increase based upon longevity or educational attainment receives a higher salary without working more hours. The higher salary indicates a higher level of service due to greater experience or more education. The payment is a payment for service and is reportable compensation.
- Cafeteria plans—Compensation received in any form under the provisions of a “cafeteria plan,” “flexible benefits plan,” or similar arrangement according to the provisions of section 125 of the United States Internal Revenue Code is reportable compensation if the employee has an absolute right to receive cash or deferred cash payments in lieu of the fringe benefits offered. In such an instance, the fringe benefit is provided instead of cash and is considered reportable compensation the same as cash. If there is no cash

option, the value of the fringe benefit is not a salary or wage and is not reportable.

- Deferred wages (payments earned by, but not paid to, an employee)—Payments earned by an employee for services rendered but deducted from his or her salary rather than paid are reportable. Examples include:
 - Tax withholding
 - Retirement contributions
 - Voluntary deductions; i.e., 403b contributions or other authorized deductions.

Reportable compensation not for services rendered

In general, payments cannot be considered reportable compensation unless they are for services rendered. Some payments are reportable that are *not* for services rendered. A description of these payments is included in WAC 415-108-463 through 510.

The following are payments *not* for services rendered that may be reportable.

- Paid leave not earned over time—may be reportable if:
 - The payment is equal to the salary for the position from which the employee is on leave; and
 - The payment is actually from the employer.
- Union leave—salary may be reportable if:
 - The leave of absence is authorized by a collective bargaining agreement that provides the member shall retain seniority rights with the employer during the period of leave; and
 - The compensation reported does not exceed the salary paid to the highest paid job class covered by the collective bargaining agreement.

Note: Refer to DRS Notice 93-014 for more information about reporting an employee who takes a leave of absence to serve as an elected official of a labor organization.

- Legislative leave—salary foregone may be reportable if:

Plan 1. The salary the employee would have earned from his or her employer if the member contributions are paid by the member and the employer contributions are paid by the member or the employer.

Plan 2 and Plan 3. The employee chooses between:

—Option 1: The reportable compensation he or she would have earned had the member not served in the legislature; or

—Option 2: The actual reportable compensation for nonlegislative public employment and the legislative service combined.

Note: If the employee selects Option 1, he or she is responsible for paying the additional employer and employee contributions on any difference between the Option 1 and Option 2 amounts.

- Compensation authorized by statute for periods of absence due to sickness or injury—Certain types of payments for periods of absence due to illness or injury have been identified by statute as reportable compensation. These payments are:

—Assault pay for employees of the state library, state institutions and state correctional institutions only.

—Shared leave—for state employees only.
(See RCW 41.04.650 - 670.)

—The regular salary an employee would have received had he or she not been absent due to an injury which occurred on the job. In order for this to be reportable compensation, the employee must be receiving benefits under Title 51 RCW (Industrial Insurance) or a similar federal workers' compensation program. Refer to RCW 41.40.038 for the rules about reporting this payment type.

Note: Whether this salary is reported on the monthly transmittal or the service credit is purchased retroactively, no more than 12 consecutive months of service credit will be granted. If a member returns to work for at least one month, he or she may be eligible for another 12 consecutive months of service credit regardless of whether the disability leave is due to a flare-up of the original injury.

Refer to DRS Notice 94-006 for more information about reporting employees who are on a leave of absence due to a temporary duty disability.

- Standby pay is excluded from the definition of service (see RCW 41.40.010(9)); however, it is specifically identified as reportable compensation in RCW 41.40.010(8).
- Reinstatement or payment in lieu of reinstatement—if an employer makes payments to an employee for periods the employee was not employed and those payments are made upon reinstatement or in lieu of reinstatement, the payments are reportable.

Sick, Annual and Personal Leave Usage

Sick leave, annual leave and personal leave are typically accumulated over time and paid to a person during a period of excused absence. Leave accrues at a prescribed rate, usually a certain number of hours per month. The employee earns a leave day by rendering service during the month the leave was accumulated. When the employee uses his or her accrued leave to take a paid day off, the payment is deferred compensation for services previously rendered. The payment is a salary or wage earned for services rendered and is reportable.

Cash out payments for sick, annual and personal leave

If an employee receives payment instead of using accrued leave, he or she receives a “cash out” for the accrued leave. Cash outs are reportable for PERS Plan 1 members only. Cash outs are excluded by statute from the definition of reportable compensation for PERS Plan 2 and Plan 3 members (see RCW 41.40.010(8)(b)). (Rules effective 3/1/02.)

The following cash outs are reportable for PERS Plan 1 members only.

- Annual Leave Cash Outs
 - For state government employees—cash outs for annual leave for up to 30 days (240 hours) are reportable compensation. Cash outs for annual leave in excess of 30 days (240 hours) may be reportable if special rules are followed (see RCW 43.01.040 and RCW 43.01.044).
 - For non-state government employees, *all* annual leave cash outs for PERS Plan 1 members qualify as reportable compensation.

Note: Annual leave cash outs for more than 30 days or 240 hours in the highest average compensation period used to calculate a

retirement benefit will result in an excess compensation billing.
(Refer to “Excess Compensation” on page 4—10 PERS.)

- Sick Leave Cash Outs are excluded from reportable compensation for:
 - State government employees
 - School district employees
 - Educational service district employees

Sick leave cash outs are reportable compensation for local government employees.

Note: Sick leave cash outs in the highest average compensation period used to calculate a retirement benefit will result in an excess compensation billing.

Payments not Considered Reportable Compensation

The following payments are not for services rendered and are not reportable.

- Fringe Benefits—payments made by an employer to a third party to provide benefits for an employee are not part of the employee’s salary or wage and are not reportable. Examples of these payment types are insurance premiums and employer retirement contributions.
- Disability Insurance—payments for disability insurance are not for services rendered and are not reportable. These payments are made to an employee because he or she is not able to render services due to a disability.
- Workers’ Compensation —payments to a member are not payments for services rendered and are not reportable. This is true whether the payments come from the Department of Labor and Industries or from a self-insured employer.

Note: Some employers have an employee on unpaid disability leave submit his or her worker’s compensation payments to the employer and then issue the employee a check through their payroll system. This exchange does not change the nature of the worker’s compensation payments and does not make the payments reportable. An employee may elect to make contributions and receive service credit for periods of disability covered by industrial insurance (see RCW 41.40.038).

- Illegal Payments—made by an employer in excess of the employer’s legal authority are not reportable.

Example: School districts are prohibited from increasing an employee’s salary to include a payment in lieu of a fringe benefit, per RCW 28A.400.220. If a district increased a person’s salary instead of providing a fringe benefit, the payment would be illegal and should not be reported.

- Optional Payments—if an employee can receive an additional payment only on the condition of taking an action other than providing service, the payment is not for services rendered and is not reportable.

Example: An employer offers to make a contribution to a deferred compensation plan on behalf of an employee only if the employee agrees to defer a portion of his or her salary. Because the employee does not have an absolute right to receive the contribution based solely on the rendering of service, the payment is not reportable compensation.

- Reimbursements for Expenses—incurred while performing services for an employer are not wages for services rendered and are not reportable. Examples of reimbursement expenses include mileage reimbursements for use of a private car on employer business or meal and lodging reimbursements for business trips.
- Retirement Bonus or Incentive—a payment made to an employee as a bonus or incentive to retire or terminate is not a payment for services rendered and is not reportable.
- Severance Pay—not earned over time—severance pay negotiated, because of a termination settlement or agreement, is not earned for services rendered and is not reportable.

Example: At the time of an employee’s termination the employer agrees to pay a lump sum payment equal to two months of salary. The employer identifies this payment as “severance pay.” Because the payment was not earned for services rendered, it is not reportable compensation.

- Car Allowance—some employers pay car allowances instead of reimbursing for actual miles driven in the employee’s car for the employer’s business. These payments are not for services rendered and are not reportable.

- Disability Retirees—PERS Plan 1—payments are not reportable until they meet the “gainful occupation” requirements under RCW 41.40.310 even though the employee may be in an eligible position. Contact PERS Retirement Services for a determination of “gainful occupation.”
- Disability Retirees—PERS Plan 2 and Plan 3—payments are not reportable until they meet the “comparable compensation” requirements under RCW 41.40.670 for Plan 2 and 41.40.825 for Plan 3 even though the employee may be in an eligible position. Contact PERS Retirement Services for a determination of “comparable compensation.”

Establishing Service Credit for Periods of Unpaid Leave

In some circumstances, a PERS Plan 2 or Plan 3 member may elect to establish service credit for periods of unpaid leave. The regular compensation the member would have earned had he or she been working is used to calculate the amount the member must pay to establish the service credit. The regular compensation amount used to create the bill is not reportable compensation. Depending on the type of leave, this compensation may or may not be included as AFC in calculating a member’s retirement benefit.

- Authorized Unpaid Leave—RCW 41.40.710 and 41.40.805 provides members with an option to establish service credit for periods of unpaid leave. Salary used to calculate the contributions for such periods is not reportable compensation and cannot be included as AFC in calculating a member’s retirement benefit.
- Military Leave—Salary used for purposes of calculating contributions owing for a period of interrupted military service is not reportable compensation. If a member elects to purchase credit for periods of military service, and the military leave period falls within the member’s AFC period, federal law requires the salary the member would have earned during the period of absence be used in the calculation of the AFC.

Nonmoney Maintenance Compensation—PERS Plan 1

Employees may receive nonmoney items from employers that may be a form of payment for services rendered. “Nonmoney maintenance compensation” means the fair market value of materials legally furnished by an employer to an employee or the employee’s dependents for *personal use*. If an employer provides materials for an employee’s personal use, the

value of the use is nonmoney maintenance and is reportable for PERS Plan 1 only.

Example: Mr. Smith's employer leases an apartment for \$700 per month. The employer charges Mr. Smith \$300 per month to use the apartment for temporary living quarters. Because Mr. Smith uses the apartment for personal rather than business purposes, the amount by which the lease value exceeds his payment is nonmoney maintenance compensation. His employer must report \$400 per month to DRS as reportable compensation.

If an employer provides an employee materials instead of reimbursement for a business expense, the value of the materials is not reportable compensation.

Note: Nonmoney maintenance compensation is not reportable for PERS Plan 2 or Plan 3.

Excess Compensation

Some types of reportable compensation for PERS members qualify as "excess compensation" if included in the calculation of a retirement benefit. Excess compensation is defined in RCW 41.50.150.

If a payment qualifies as excess compensation, the employer is billed for the resulting increase in the retiree's benefit to offset the increased cost to the trust funds. The employer's bill is based on the present value of the increase to the retiree's benefit. Present value is calculated using actuarial tables developed by the Office of the State Actuary and adopted into WAC by DRS. Excess compensation for PERS Plan 1 members includes:

- A cash out of annual leave in excess of 240 hours. Cash out means:
 - Any payment added to salary or wages concurrent with a reduction of annual leave; or
 - Any payment made instead of an accrual of annual leave.

Example: An employer's collective bargaining agreement provides that once an employee accrues 240 hours of annual leave, the employee will not earn any additional annual leave. Instead, the employer will pay the person each month for the value of the leave the person would have accrued that month. For instance, if the employee earned 14 hours of annual leave each month and already had 240 hours of annual leave, the employer would pay the employee for an additional 14 hours each month. The employee's leave balance would remain at 240 hours. The payment qualifies

as a cash out, and to the extent it is used during the AFC period, is excess compensation.

- Any payment (overtime) that is greater than twice the regular daily or hourly rate qualifies as excess compensation.

Note: Payment of double time and a half for work on a holiday does not violate this provision. The standard compensation for work done on the holiday is compensated at time and a half. The standard compensation for the holiday, plus time and a half for working after regular work hours, equals double time and a half. Accordingly, the employee is not earning more than twice his or her regular rate of pay for the work done on the holiday.

- Any termination or severance pay. Note that a termination or severance payment, which does not qualify as reportable compensation, would not be excess compensation because it is not reportable.
- Payment for extra work done in which the assignment of extra duties was based upon the employee's notification of intent to terminate or retire. (See the "Retirement Bonus or Incentive" paragraph on page 4—8 PERS.)

Note: Refer to DRS Notices 84-002, 95-010 and 98-001 for more information about excess compensation.

Excess compensation for PERS Plan 1 and Plan 2 members includes:

- A cash out of any form of leave other than annual. The most common example is sick leave. Any sick leave cash out that is included in a retiree's AFC qualifies as excess compensation.

Note: If you are a state agency or an educational employer, do not report sick leave cash outs for your employees. Sick leave cash outs are not included in the employee's retirement benefit calculation.

- If a portion of an allowance or reimbursement qualifies as reportable compensation; i.e., car allowance, that portion is excess compensation. Generally, allowances and reimbursements do not qualify as reportable compensation.

Reportable Compensation Table

The table provided on pages 4—12 PERS and 4—13 PERS is a quick reference guide to help characterize payments for PERS Plan 1, Plan 2 and Plan 3. The short answer refers you to the WAC that states why the payment does or does not qualify as reportable compensation. Review the full text of the WAC to be sure you have correctly identified the payment in question.

PERS REPORTABLE COMPENSATION TABLE

Type of Payment	PERS 1 Reportable Compensation	PERS 2 and 3 Reportable Compensation
Annual Leave Cash Outs	Yes — WAC 415-108-456	No — WAC 415-108-456
Assault Pay (State Emp.)	Yes — WAC 415-108-468	Yes — WAC 415-108-468
Base Rate	Yes — WAC 415-108-451	Yes — WAC 415-108-451
Car Allowances	No — WAC 415-108-485 ¹	No — WAC 415-108-485
Cafeteria Plans	Yes — WAC 415-108-455	Yes — WAC 415-108-455
Deferred Wages	Yes — WAC 415-108-459	Yes — WAC 415-108-459
Disability Payments	No — WAC 415-108-477	No — WAC 415-108-477
Disability Retirees	No — RCW 41.40.310 (until requirements are met)	No — RCW 41.40.670 (until requirements are met)
Disability: Salary lost while on disability leave	Yes — WAC 415-108-468 RCW 41.40.038	Yes — WAC 415-108-468 RCW 41.40.038
Employer Provided Vehicle	No — WAC 415-108-480 ²	No — WAC 415-108-480
Employer Contributions	No — WAC 415-108-459	No — WAC 415-108-459
Fringe Benefits	No — WAC 415-108-475	No — WAC 415-108-475
Illegal Payments	No — WAC 415-108-482	No — WAC 415-108-482
Legislative Leave	Yes — WAC 415-108-464	Yes — WAC 415-108-464
Longevity/Education Attainment Pay	Yes — WAC 415-108-451	Yes — WAC 415-108-451
Nonmoney Maintenance	Yes — WAC 415-108-470 ³	No — WAC 415-108-470
Optional Payments	No — WAC 415-108-483	No — WAC 415-108-483
Payments in Lieu of Excluded Items	No — WAC 415-108-463	No — WAC 415-108-463
Performance Bonuses	Yes — WAC 415-108-453	Yes — WAC 415-108-453

(Continued on next page)

¹ A portion of the value of an employer car allowance may be reportable. See WAC 415-108-485.

² A portion of the value of an employer provided vehicle may be reportable in Plan 1 only.
See WAC 415-108-480.

³ A portion of the value of nonmoney maintenance provided may be reportable in Plan 1 only.
See WAC 415-108-470.

PERS REPORTABLE COMPENSATION TABLE (Continued)

Type of Payment	PERS 1 Reportable Compensation	PERS 2 and 3 Reportable Compensation
Retroactive Salary Increase	Yes — WAC 415-108-457	Yes — WAC 415-108-457
Reimbursements	No — WAC 415-108-484	No — WAC 415-108-484
Reinstatement Payments	Yes — WAC 415-108-467	Yes — WAC 415-108-467
Retirement or Termination Bonuses	No — WAC 415-108-487	No — WAC 415-108-487
Severance Pay – Earned Over Time	Yes — WAC 415-108-458	No — WAC 415-108-458
Severance Pay – Not Earned Over Time	No — WAC 415-108-488	No — WAC 415-108-488
Shared Leave – State Employees	Yes — WAC 415-108-468	Yes — WAC 415-108-468
Shared Leave – Local Government Employees	No — WAC 415-108-468	No — WAC 415-108-468
Sick Leave Cash Outs – State Employees	No — WAC 415-108-456	No — WAC 415-108-456
Sick Leave Cash Out – Local Government Employees	Yes — WAC 415-108-456	No — WAC 415-108-456
Standby Pay	Yes — WAC 415-108-469	Yes — WAC 415-108-469
Time Off With Pay	Yes — WAC 415-108-456 WAC 415-108-465	Yes — WAC 415-108-456 WAC 415-108-465
Union Leave ⁴	Yes — WAC 415-108-466	Yes — WAC 415-108-466
Worker's Compensation	No — WAC 415-108-479	No — WAC 415-108-479

⁴ Only specific types of union leave are reportable. See WAC 415-108-466.